

AL EVERITT BOYETT, JR.  
PLAINTIFF  
2006 FEB -7 A 9:50

V.  
ANTHONY CLARK, SHERIFF, ET ALA,  
DEFENDENT

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Civil Action No. 2:05-CV-966-d

MOTION TO DEMAND TRIAL BY JURY

MOTION FOR CONTINUANCE OF PROCEEDINGS  
UNTIL PLAINTIFF IS RELEASED FROM PRISON  
CUSTODY

MOTION TO PRESERVE THE RIGHT TO DISCOVERY  
UNDER RULE 26 FED. R. CIV. P.

COMES NOW, AL. E. BOYETT, JR. PRO SE, AND MOVES THIS HONORABLE COURT TO GRANT SAID MOTIONS AND WILL HEREAFTER SHOW GOOD CAUSE WHY THEY SHOULD BE GRANTED AS FOLLOWS:

- 1) THE PLAINTIFF IS INCARCERATED IN A ALABAMA PRISON AND HAS A E.D.S. DATE OF MAY 22, 2006, THE PLAINTIFF HAS A §1983 ACTION AGAINST THE DEFENDANTS ALLEGING A DELIBERATE INDIFFERENCE TO HIS SERIOUS MEDICAL NEEDS.
- 2) PURSUANT TO FED. R. CIV. P. RULE 38 (B), THE PLAINTIFF DEMANDS A TRIAL BY JURY. THE PLAINTIFF ALLEGES U.S. CONSTITUTIONAL VIOLATIONS OF HIS MEDICAL CARE WHILE IN THE CUSTODY OF THE COVINGTON COUNTY SHERIFF AND ASK FOR A JURY TRIAL FOR THE DETERMINATION OF ANY WRONG DOING BY THE DEFENDANT.

3) THE PLAINTIFF HAS A HEAVY BURDEN TO MEET TO SHOW NEGLIGENCE AND MAL-PRACTICE TO THE POINT THAT IT VIOLATED HIS U.S.C.A. 8<sup>TH</sup> RIGHT AGAINST CRUEL AND UNUSUAL PUNISHMENT. WITH SUCH A GREAT BURDEN THE PLAINTIFF NEEDS EXPERT MEDICAL TESTIMONY TO SUPPORT HIS CLAIMS. HE IS AT A SEVERE DISADVANTAGE OBTAINING THE NEEDED MEDICAL EXPERT TESTIMONY AND TRAINED COUNSEL TO REPRESENT HIM IN HIS ACTION AGAINST COVINGTON COUNTY JAIL AND ITS MEDICAL STAFF WHILE INCARCERATED.

THE PLAINTIFFS RELEASE DATE IS IN MAY 22, 2006 ONLY A FEW SHORT MONTHS AWAY. WHEN THE PLAINTIFF IS RELEASED HE WILL EXERCISE HIS U.S.C.A. 6 RIGHT TO DUE PROCESS BY OBTAINING A LAWYER FOR HIS CLAIMS. THIS CONTINUANCE WOULD NOT PUT A UNREASONABLE DELAY ON THE DEFENDANTS.

4) UNDER NORMAL CIRCUMSTANCES THE PARTIES ARE ENTITLED TO DISCOVERY UNDER RULE 26 (A) (1) AND (2) BUT THE PLAINTIFF IS INCARCERATED AND RULE 26 (E) (iii) STATES WITHOUT COUNSEL HE IS EXEMPT FROM INITIAL DISCLOSURE. THE PLAINTIFF AGAIN IS AT A SEVERE DISADVANTAGE BY NOT BEING ABLE TO ASK FOR DISCOVERY ON THE ALL IMPORTANT MEDICAL RECORDS IN POSSESSION OF THE MEDICAL STAFF. HE ASKS THIS COURT TO PRESERVE DISCOVERY FOR USE BY FUTURE TRAINED COUNSEL FOR THAT THAT ATTORNEY IS NOT TIME BARRED AND THE DEFENDANTS GAIN A GREAT ADVANTAGE.

WHEREFORE, THE PLAINTIFF ASKS FOR THESE MOTIONS TO BE GRANTED TO UPHOLD THE FAIRNESS IN HIS VALID COMPLAINT AGAINST THE DEFENDANTS.

AL E. Boyett Jr.  
AL EVERITT BOYETT, JR. PRO SE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY AND AFFIRM THAT I HAVE SERVED  
A COPY OF THIS MOTION ON THE PARTIES LISTED BELOW  
IN THE U.S. MAIL FIRST CLASS POSTAGE AFFIXED THIS 6<sup>th</sup>  
DAY OF February, 2006

ANTHONY CLARK, SHERIFF  
COVINGTON, COUNTY JAIL  
290 HILLCREST DRIVE  
ANDALUSIA, AL 36420

AL E. Boyett Jr.  
AL EVERITT BOYETT JR. PRO SE  
3800 FOUNTAIN  
ATMORE, AL 36503

LANIER FORD & SHAVER & PAYNE P.C.  
200 WEST SIDE SQUARE, SUITE 5000  
P.O. BOX 2087  
HUNTSVILLE, AL. 35804